

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:12-cv-77**

**TD BANK, N.A.,** )  
 )  
 **Plaintiff,** )  
 )  
**vs.** )  
 )  
 **REYNOLDS MOUNTAIN LAND** )  
 **COMPANY, LLC, MARS HILL** )  
 **CROSSROADS, LLC, MICHAEL** )  
 **WERNER, and BENJAMIN GARFINKLE,** )  
 )  
 **Defendants.** )  
\_\_\_\_\_ )

**ORDER**

**THIS MATTER** is before the Court *sua sponte* to ascertain subject matter jurisdiction.

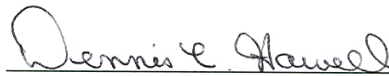
The defendants Reynolds Mountain Land Company, LLC and Mars Hill Crossroads, LLC removed this action from state court based upon diversity jurisdiction (#1). In the Complaint, plaintiff alleges that Reynolds Mountain Land Company, LLC is a corporation organized under the laws of the state of Florida and Mars Hill Crossroads, LLC is a corporation organized under the laws of the state of Florida.

Courts have an affirmative duty to question subject matter jurisdiction even when the parties have not done so. Interstate Petroleum Corp. v. Morgan, 249 F.3d

215 (4<sup>th</sup> Cir. 2001); Plyer v. Moore, 129 F.3d 728, 732 n.6 (4th Cir. 1997),  
*certiorari denied* 524 U.S. 945, 118 S.Ct. 2359, 141 L.Ed.2d 727 (1998); 28 U.S.C.  
§1447(c)("If at any time before final judgment it appears that the district court lacks  
subject matter jurisdiction, the case shall be remanded."). A limited liability  
company is a citizen of all states in which its constituent members are citizens.  
Carden v. Arkoma Associates, 494 U.S. 185, 110 S.Ct. 1015, 108 L.Ed.2d 157  
(1990). The defendants have not disclosed in their Notice of Removal whether they  
have constituent members or partners and therefore will be required to do so.

**IT IS, THEREFORE, ORDERED** that on or before June 5, 2012, the  
defendants shall file a response disclosing the names and citizenships, if any, of all  
the constituent members or partners of the above referenced LLC's, and, for any  
such constituent members or partners that are limited liability companies or  
partnerships, to identify the citizenships of the respective constituent members or  
partners until all such constituents are fully identified.

Signed: May 15, 2012



Dennis L. Howell  
United States Magistrate Judge

